

## **The complaint**

Mr D is unhappy that Barclays Bank UK PLC have recorded a Cifas marker on his credit file. He would like this to be removed.

## **What happened**

Mr D says he was the victim of a crime on 10 July 2018. He's said his friend told him about a way in which he could make money quickly and as this appealed to him, he wanted to know more. Mr D and his friend drove to meet someone to discuss this further, but three men forcefully entered Mr D's vehicle and threatened him with a knife. He says he was coerced into complying with demands which involved the perpetrators accessing his bank account and setting up mobile banking. Mr D says he was then forced to make cash withdrawals.

Mr D says he was too scared to report the incident to Barclays or the police because the perpetrators had threatened him and he was worried about the safety of his family as the perpetrators knew his address.

In 2022 Mr D raised a complaint because he realised adverse information had been recorded on his credit file and he's said this is having a huge impact on his life. Barclays said there was no evidence to support the removal of the Cifas marker so they didn't uphold the complaint.

Our investigator didn't uphold the complaint. She said there was sufficient evidence to show Mr D's account had received funds fraudulently. She didn't think Mr D's testimony was plausible because online and mobile banking had been set up after the account was opened. She concluded it was unlikely Mr D had all the relevant documents in his car at the time of the incident which would be needed to set up online banking and she noted only one device had been registered for online banking. Our investigator said the same mobile number was used for the account opening as well as online banking so she found it hard to believe the perpetrators had the same mobile number as him.

Mr D sent numerous responses but in summary said he already had online banking prior to the incident but not mobile banking and this was set up using the perpetrators phone and the phone number did not belong to him. Mr D said he called Barclays to report the fraud and said that the further credits coming into the account didn't belong to him so this shows he wasn't willing to participate in the fraudulent activity. He re-iterated this was a very traumatic event for him so this may account for any discrepancies in his recollection of events. As Mr D didn't agree with our investigator, the case has been passed to me to consider.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The marker that Barclays have filed with Cifas is intended to record that there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file

such a marker, Barclays isn't required to prove beyond reasonable doubt that Mr D was guilty of a fraud or financial crime, but they must show that there are grounds for more than mere suspicion or concern.

My role here is to look at the evidence Barclays has in showing that fraudulent funds have entered Mr D's account. Barclays also need to show that Mr D was deliberately dishonest in receiving the fraudulent funds and knew they were, or might be, illegitimate payments. This will then help me to establish whether Barclays acted fairly in loading a Cifas marker against Mr D.

*Did Mr D's account receive fraudulent funds?*

I'm satisfied based on the information provided by Barclays they've sufficient evidence that the funds paid into Mr D's account on 10 July 2018 were fraudulent. Mr D also acknowledges this. I'm therefore satisfied that Barclays met the first pillar to load a marker.

But this isn't sufficient on its own for Barclays to load a marker, I need to be satisfied Mr D was complicit in the fraud, so in summary was deliberately dishonest and knew the funds were fraudulent. So, I've moved on to consider this.

*Was Mr D complicit?*

I think it's more likely than not that Mr D was complicit in the fraudulent transactions that took place on his account.

Having read what Mr D has said, I have noticed discrepancies which calls into question his overall testimony.

Mr D has said he was coerced into complying with demands which involved the perpetrators accessing his bank account and then forcing him to make cash withdrawals. So I would expect to see the account receiving the fraudulent credits first and then the cash withdrawals taking place afterwards. However, the two cash withdrawals that Mr D says he was forced to make took place on 9 July in the evening at 19:33 and 19:42 but the fraudulent credits credited Mr D's account the following day, 10 July.

Mr D also says the perpetrators left him after the cash withdrawals took place and that he was left in possession of his card. But I struggle to understand why the perpetrators would do this and then have fraudulent funds paid into the account, given that they'd have no further access to it.

Mr D has also been contradictory about whether it was online or mobile banking that was set up by the perpetrators. However, he has also said that this event was incredibly traumatic for him hence why he may not be able to recall everything exactly as it happened. I have taken this into account when considering Mr D's case, along with that he could have just been mistaken whether it was online or mobile banking that was set up by the perpetrators.

Based on the evidence, I can see that both online and mobile banking were set up prior to the events of 10 July. I can see that online banking was set up after the account was opened and welcome letters were sent to Mr D's address in March 2018. So I don't agree that online banking was opened during the event Mr D has referred to.

Barclays have said a PIN entry device for his card would have been required along with a passcode to enable online banking. Like the investigator, I think it's highly unlikely Mr D would have had these to hand in his car on 10 July for the perpetrators to use. So I'm not persuaded by this version of events.

Barclays' evidence shows that Mr D registered for mobile banking on 7 July 2018, which again was prior to the events Mr D alleges to have happened. So I don't agree that mobile banking was set up during the event in 2018 Mr D has referred to.

I also find it a strange coincidence that Mr D's online banking seems to have been set up only a matter of days before the event especially taking into account that Mr D has changed his version of events about what happened in 2018.

Barclays have said that in order to set up mobile banking, Mr D would have had to go through verification to enable it. Barclays have said this would have included passing security checks which only the account holder should know such as the PIN. But Mr D hasn't said he gave this information to the perpetrators or that they asked for this, so his testimony is inconsistent with the evidence provided by Barclays. And it remains that I don't think the perpetrators set up mobile banking as Mr D has suggested.

Barclays said that the mobile number they held for Mr D when he opened the account was the same one that was used to set up mobile banking. Unfortunately, due to the length of time that has passed Barclays haven't been able to provide us with evidence of the number used during account opening, I don't think this is unreasonable. However, they have provided a screenshot showing they've only ever held one number for Mr D. So on balance, I think it's likely the same number was used for the account opening and to set up mobile banking.

When our investigator shared this number with Mr D he said this did not belong to him. However, Mr D hasn't told our service he is disputing opening the account, so I find it hard to believe Mr D's version of events that this wasn't him. And it seems highly unlikely that the same number would be used again to register mobile banking – which Mr D says he has no knowledge of. So I think it's more likely than not Mr D's genuine number was used to set up the account and register for mobile banking.

Mr D initially said although his mobile number was used the perpetrators had access to his phone and could have manipulated the setting to link it to their own mobile number. But having looked at Barclays records, only one device seems to have been registered for online banking so this version of events put forwards by Mr D does not seem plausible.

Mr D says he called Barclays to report his card as lost the day after the event and said that further credits were nothing to do with him. He said this shows he was a victim and was used by criminals to funnel money through his account.

Although Mr D may have been trying to prevent being involved in further fraud by contacting Barclays to report his card as lost, he had already participated in fraudulent activity – and was aware of this. In addition to this, Mr D had an opportunity to report the incident to Barclays but didn't do so, and left this for many years.

Mr D said that he didn't report the crime because he was busy working and studying. But he's also explained this was an incredibly traumatic event – so I find it hard to understand that he'd delay reporting such an ordeal. He also found the time to cancel his card, so it's reasonable to suggest he could have found time to report a serious crime.

Having looked at the police report which was made some years later I can see it doesn't provide very much detail considering Mr D has stated how distressing this was and that he feared for his safety. I find it unusual that Mr D didn't work with the police or provide any further evidence – and because he didn't do so, the police have said they were unable to take the alleged crime any further.

In the police report Mr D seems to have reported that the event took place on 8 July, although I notice his complaint form refers to 9 July so there are also inconsistencies here, although I do appreciate the length of time that has passed.

Taking everything into account I don't believe the version of events that Mr D has put forwards. I think it's more likely than not that Mr D had more knowledge about what was happening than he has told us and I think he knew the funds received into his account were fraudulent. I'm satisfied Barclays had sufficient evidence for the Cifas marker to be recorded on Mr D's credit file. It follows I won't be asking them to remove it.

I realise Mr D will be very disappointed with my decision given the impact it's having on him but there isn't any persuasive evidence that suggests Barclays have acted unfairly in recording a Cifas marker against him.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 12 April 2024.

Marie Camenzuli  
**Ombudsman**